

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA §
§
§
v. §
§
CRIMINAL NO. A-20-CR-00156-RP
CYRIL LARTIGUE §
§
§
§

DEFENDANT'S THIRD UNOPPOSED MOTION TO CONTINUE

**TO THE HONORABLE JUDGE PITMAN, UNITED STATES DISTRICT JUDGE FOR
THE WESTERN DISTRICT OF TEXAS:**

COMES NOW Defendant, Cyril Lartigue ("Mr. Lartigue") by and through undersigned counsel and hereby files this Defendant's Third Unopposed Motion to Continue in the above-styled and numbered cause, and in support thereof would show the following:

I.

This case currently is currently set for a Docket Call on **January 7, 2021 at 9:00 a.m.** This case is currently set for Jury Selection/Jury Trial on **January 19, 2021 at 9:00 a.m.**

II.

Undersigned counsel requests that the above trial date be continued by at least sixty (60) days in order to continue investigation, preparation and negotiations with the Government in this matter. The Government does not oppose this request.

In addition, on March 13, 2020, the Western District of Texas issued a series of Orders Regarding Court Operations under the Exigent Circumstances Created by the COVID-19 Pandemic that impact all settings in civil and criminal matters scheduled. The Orders have been supplemented numerous times which currently impact court proceedings within the Western District of Texas

through January 31, 2021, which impacts the viability of the January 19, 2021 trial date. It is possible that these Orders may be further extended which will continue to impact this case.

Undersigned counsel believes that the current settings would deny Mr. Lartigue reasonable time necessary for effective preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. 3161(h)(7)(B)(iv).¹ Therefore, undersigned counsel requests this continuance in order to preserve Mr. Lartigue's constitutional rights to effective assistance of counsel, due process, and due course of law under the Fifth and Sixth Amendments to the United States Constitution.

III.

Undersigned counsel requests that the Court extend above-referenced dates by at least sixty (60) days.

IV.

The Assistant United States Attorney Keith Henneke was contacted about this Motion and he is unopposed.

V.

This Motion is made not for the purpose of delay only, but so that justice may be done.

WHEREFORE, PREMISES CONSIDERED, Movant prays for the Court to continue the current dates by at least sixty (60) days.

¹ See *Wiggins v. Smith*, 539 U.S. 510, 534 (2003) (failure to investigate is not reasoned strategic judgment); *Rompilla v. Beard*, 545 U.S. 374, 395-96 (2005) (O'Connor, concurring) (finding ineffective assistance when defense counsel failed to properly investigate critical issue); *Sims v. Livesay*, 970 F.2d 1575, 1580-81 (6th Cir.1992) (defense counsel ineffective for failure to conduct an independent investigation and failed to ask a defense expert to examine the evidence); *Driscoll v. Delo*, 71 F.3d 701, 709 (8th Cir.1995) (defense counsel's failures to prepare for the introduction of scientific evidence and "to subject the state's theories to the rigors of adversarial testing" constituted ineffective assistance).

Respectfully submitted,

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By: _____ */s/ Kristin Etter*
Kristin Etter
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**ATTORNEY FOR DEFENDANT
CYRIL LARTIGUE**

CERTIFICATE OF SERVICE

By my signature below, I do hereby certify that December 22, 2020 a true and correct copy of the foregoing Defendant's Third Unopposed Motion to Continue was filed using the Court's electronic filing system, which will provide notice to all parties of record, specifically:

Keith Henneke
United States Attorney's Office
Keith.Henneke@usdoj.gov

/s/ Kristin Etter
Kristin Etter

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ORDER

CAME ON for hearing on _____, 2020 the foregoing Defendant's Third Unopposed Motion to Continue, and the Court finds that for the reasons stated in the Defendant's motion, the ends of justice served by the continuance outweigh the best interest of the public and the Defendant in a speedy trial. The Court further finds, pursuant to 18 U.S.C. § 3161(h)(8)(A), that the period of delay resulting from this continuance shall be excluded in computing the time within which the trial must commence under the Speedy Trial Act.

IT IS ORDERED THAT the hearing on all pending pretrial motions/docket call is continued until the ____ day of ____, 2021, and that jury selection/jury trial is continued until the ____ day of ____, 2021.

SIGNED on _____.

JUDGE PITMAN